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be held to render a decision on the issue.

(B) Such person or firm shall have 20 days from the date of the Administrator's ruling to request a hearing. A detailed statement of the reasons why the Administrator's ruling is in error, including facts alleged to be in dispute, if any, shall be submitted with the request for a hearing.

(C) If no hearing is requested within the time mentioned in paragraph (d)(2)(iv)(B) of this section, the Administrator's finding shall be final and the Administrator shall so notify the Comptroller General. If a hearing is requested, the ruling of the Administrator shall be inoperative unless and until the administrative law judge or the Administrative Review Board issues an order that there is an interest (or substantial interest, as appropriate).

(3)(i) A request for a determination of interest (or substantial interest, as appropriate), may be made by any interested party, including contractors or prospective contractors and associations of contractor's representatives of employees, and interested Government agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210.

(ii) The request shall include a statement setting forth in detail why the petitioner believes that a person or firm whose name appears on the debarred bidders list has an interest (or a substantial interest, as appropriate) in any firm, corporation, partnership, or association which is seeking or has been awarded a contract of the United States or the District of Columbia, or which is subject to any of the statutes listed in § 5.1. No particular form is prescribed for the submission of a request under this section.

(4) *Referral to the Chief Administrative Law Judge.* The Administrator, on his/her own motion under paragraph (d)(2)(ii) of this section or upon a request for hearing where the Administrator determines that relevant facts are in dispute, will by order refer the issue to the Chief Administrative Law Judge, for designation of an Adminis-

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trative Law Judge who shall conduct such hearings as may be necessary to render a decision solely on the issue of interest (or substantial interest, as appropriate). Such proceedings shall be conducted in accordance with the procedures set forth at 29 CFR part 6.

(5) *Referral to the Administrative Review Board.* If the person or firm affected requests a hearing and the Administrator determines that relevant facts are not in dispute, the Administrator will refer the issue and the record compiled thereon to the Administrative Review Board to render a decision solely on the issue of interest (or substantial interest, as appropriate). Such proceeding shall be conducted in accordance with the procedures set forth at 29 CFR part 7.

[48 FR 19541, Apr. 29, 1983, as amended at 48 FR 50313, Nov. 1, 1983]

### § 5.13 Rulings and interpretations.

All questions relating to the application and interpretation of wage determinations (including the classifications therein) issued pursuant to part 1 of this subtitle, of the rules contained in this part and in parts 1 and 3, and of the labor standards provisions of any of the statutes listed in § 5.1 shall be referred to the Administrator for appropriate ruling or interpretation. The rulings and interpretations shall be authoritative and those under the Davis-Bacon Act may be relied upon as provided for in section 10 of the Portal-to-Portal Act of 1947 (29 U.S.C. 259). Requests for such rulings and interpretations should be addressed to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210.

### § 5.14 Variations, tolerances, and exemptions from parts 1 and 3 of this subtitle and this part.

The Secretary of Labor may make variations, tolerances, and exemptions from the regulatory requirements of this part and those of parts 1 and 3 of this subtitle whenever the Secretary finds that such action is necessary and proper in the public interest or to prevent injustice and undue hardship. Variations, tolerances, and exemptions may not be made from the statutory

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requirements of any of the statutes listed in § 5.1 unless the statute specifically provides such authority.

### **§ 5.15 Limitations, variations, tolerances, and exemptions under the Contract Work Hours and Safety Standards Act.**

(a) *General.* Upon his or her own initiative or upon the request of any Federal agency, the Secretary of Labor may provide under section 105 of the Contract Work Hours and Safety Standards Act reasonable limitations and allow variations, tolerances, and exemptions to and from any or all provisions of that Act whenever the Secretary finds such action to be necessary and proper in the public interest to prevent injustice, or undue hardship, or to avoid serious impairment of the conduct of Government business. Any request for such action by the Secretary shall be submitted in writing, and shall set forth the reasons for which the request is made.

(b) *Exemptions.* Pursuant to section 105 of the Contract Work Hours and Safety Standards Act, the following classes of contracts are found exempt from all provisions of that Act in order to prevent injustice, undue hardship, or serious impairment of Government business:

(1) Contract work performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the following: A State of the United States; the District of Columbia; Puerto Rico; the Virgin Islands; Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (ch. 345, 67 Stat. 462); American Samoa; Guam; Wake Island; Eniwetok Atoll; Kwajalein Atoll; and Johnston Island.

(2) Agreements entered into by or on behalf of the Commodity Credit Corporation providing for the storing in or handling by commercial warehouses of wheat, corn, oats, barley, rye, grain sorghums, soybeans, flaxseed, rice, naval stores, tobacco, peanuts, dry beans, seeds, cotton, and wool.

(3) Sales of surplus power by the Tennessee Valley Authority to States, counties, municipalities, cooperative organization of citizens or farmers, corporations and other individuals pur-

suant to section 10 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 8311).

(c) *Tolerances.* (1) The “basic rate of pay” under section 102 of the Contract Work Hours and Safety Standards Act may be computed as an hourly equivalent to the rate on which time-and-one-half overtime compensation may be computed and paid under section 7 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 207), as interpreted in part 778 of this title. This tolerance is found to be necessary and proper in the public interest in order to prevent undue hardship.

(2) Concerning the tolerance provided in paragraph (c)(1) of this section, the provisions of section 7(d)(2) of the Fair Labor Standards Act and § 778.7 of this title should be noted. Under these provisions, payments for occasional periods when no work is performed, due to vacations, and similar causes are excludable from the “regular rate” under the Fair Labor Standards Act. Such payments, therefore, are also excludable from the “basic rate” under the Contract Work Hours and Safety Standards Act.

(3) See § 5.8(c) providing a tolerance subdelegating authority to the heads of agencies to make appropriate adjustments in the assessment of liquidated damages totaling \$500 or less under specified circumstances.

(4)(i) Time spent in an organized program of related, supplemental instruction by laborers or mechanics employed under bona fide apprenticeship or training programs may be excluded from working time if the criteria prescribed in paragraphs (c)(4)(ii) and (iii) of this section are met.

(ii) The apprentice or trainee comes within the definition contained in § 5.2(n).

(iii) The time in question does not involve productive work or performance of the apprentice's or trainee's regular duties.

(d) *Variations.* (1) In the event of failure or refusal of the contractor or any subcontractor to comply with overtime pay requirements of the Contract Work Hours and Safety Standards Act, if the funds withheld by Federal agencies for the violations are not sufficient to pay